

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Special District Local Laws  
Code  
Chapter 9020  
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2 CHAPTER 9020. DONAHOE CREEK WATERSHED AUTHORITY

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Revised Law

5 Sec. 9020.001. DEFINITIONS. In this chapter:

6 (1) "Authority" means the Donahoe Creek Watershed  
7 Authority.

8 (2) "Board" means the board of directors of the  
9 authority.

10 (3) "Director" means a member of the board. (Acts 55th  
11 Leg., 1st C.S., Ch. 29, Sec. 1 (part); New.)

12 Source Law

13 Sec. 1. . . . [a . . . district] to be known as  
14 Donahoe Creek Watershed Authority . . . .

15 Revisor's Note

16 The definitions of "authority," "board," and  
17 "director" are added to the revised law for drafting  
18 convenience and to eliminate frequent, unnecessary  
19 repetition of the substance of the definitions.  
20 Although parts of Chapter 29, Acts of the 55th  
21 Legislature, 1st Called Session, 1957, refer to the  
22 authority as the "district," throughout this chapter  
23 the revised law uses the term "authority" rather than  
24 "district" to conform to the name of the authority.

25 Revised Law

26 Sec. 9020.002. NATURE OF AUTHORITY. The authority is a  
27 conservation and reclamation district in portions of Bell, Milam,  
28 and Williamson Counties. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 1  
29 (part).)

30 Source Law

31 Sec. 1. There is hereby created within the State  
32 of Texas, a conservation and reclamation district  
33 . . . which shall include and consist of portions of  
34 the Counties of Bell, Milam and Williamson . . . .

35 Revisor's Note

36 (1) Section 1, Chapter 29, Acts of the 55th

Legislature, 1st Called Session, 1957, provides that the authority is "hereby created within the State of Texas." The revised law omits the quoted language as executed.

(2) Section 1, Chapter 29, Acts of the 55th Legislature, 1st Called Session, 1957, refers to the authority as "a governmental agency and body politic." The revised law omits the quoted language because it duplicates a portion of Section 59(b), Article XVI, Texas Constitution, which provides that a conservation and reclamation district is a governmental agency and body politic. The omitted law reads:

Sec. 1. . . . The Authority is hereby declared to be a governmental agency and body politic . . . .

Revised Law

Sec. 9020.003. FINDINGS OF BENEFIT AND PURPOSE. (a) All territory included in the authority will benefit from the works and projects accomplished by the authority under the powers conferred by Section 59, Article XVI, Texas Constitution.

(b) The creation of the authority is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. (Acts 55th Leg., 1st C.S., Ch. 29, Secs. 1 (part), 2 (part).)

Source Law

Sec. 1. [There is hereby created . . . a conservation and reclamation district] . . . the creation of this Authority is hereby declared to be essential to the accomplishment of the purposes set forth in Article XVI, Section 59, of the Constitution of Texas.

Sec. 2. It is expressly determined and found that all of the territory included with the area of the district will be benefited by the works and projects which are to be accomplished by the Authority pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas. . . .

Revised Law

Sec. 9020.004. AUTHORITY TERRITORY. The authority is composed of the territory described by Section 2, Chapter 29, Acts of the 55th Legislature, 1st Called Session, 1957, as that

territory may have been modified under:

- (1) Subchapter O, Chapter 51, Water Code;
- (2) Subchapter J, Chapter 49, Water Code; or
- (3) other law. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 1 (part); New.)

Source Law

Sec. 1. . . . [a . . . district] . . . described and contained within the metes and bounds set forth in Section 2 of this Act. . . .

Revisor's Note

The revised law does not revise the statutory language describing the territory of the authority to avoid the lengthy recitation of the description and because that description may not be accurate on the effective date of the revision or at the time of a later reading. For the reader's convenience, the revised law includes references to the statutory description of the authority's territory and to statutory authority to change the authority's territory under Subchapter O, Chapter 51, Water Code, applicable to water control and improvement districts, and under Subchapter J, Chapter 49, Water Code, applicable to the authority under Sections 49.001 and 49.002 of that chapter. The revised law also includes a reference to the general authority of the legislature to enact other laws to change the authority's territory.

Revised Law

Sec. 9020.005. APPLICABILITY OF OTHER WATER CONTROL AND IMPROVEMENT DISTRICT LAW. Except as provided by this chapter, general laws pertaining to water control and improvement districts govern the authority. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 13.)

Source Law

Sec. 13. Except as modified or supplemented by the provisions of this Act all laws or parts of law now in effect or hereafter adopted, as well as those

1       amendatory or supplemental to the general laws  
2       pertaining to water control and improvement districts  
3       are adopted by reference as though set out at length  
4       herein, and such laws shall govern the Authority and  
5       subordinate districts.

6                               Revisor's Note

7               (1)   Section 13, Chapter 29, Acts of the 55th  
8       Legislature, 1st Called Session, 1957, refers to  
9       certain laws that govern the authority, including laws  
10      "now in effect . . . , as well as those amendatory or  
11      supplemental."   The revised law omits the quoted  
12      language because under Section 311.027, Government  
13      Code (Code Construction Act), unless expressly  
14      provided otherwise, a reference to a statute applies  
15      to all reenactments, revisions, or amendments of the  
16      statute.

17              (2)   Section 13, Chapter 29, Acts of the 55th  
18      Legislature, 1st Called Session, 1957, refers to  
19      certain laws that govern the authority, including laws  
20      "hereafter adopted." The revised law omits the quoted  
21      language because a law that applies to or governs the  
22      authority applies on its own terms.

23              (3)   Section 13, Chapter 29, Acts of the 55th  
24      Legislature, 1st Called Session, 1957, provides that  
25      certain laws applicable to water control and  
26      improvement districts "are adopted by reference as  
27      though set out at length herein." The revised law  
28      omits the quoted language because a law that applies to  
29      or governs the authority applies on its own terms  
30      without needing to be adopted by reference.

31              (4)   Section 13, Chapter 29, Acts of the 55th  
32      Legislature, 1st Called Session, 1957, refers to the  
33      general laws that govern the authority and  
34      "subordinate districts." Section 6, Chapter 29, Acts  
35      of the 55th Legislature, 1st Called Session, 1957,  
36      provided a certain period during which subordinate

1 districts could have been created in accordance with  
2 the procedures provided. Throughout this chapter, the  
3 revised law omits provisions relating to subordinate  
4 districts because the authority did not create any  
5 subordinate districts under Section 6 during the  
6 period that was authorized for that purpose.

7 SUBCHAPTER B. BOARD OF DIRECTORS

8 Revised Law

9 Sec. 9020.051. COMPOSITION OF BOARD. The board consists of  
10 six elected directors. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 14  
11 (part).)

12 Source Law

13 Sec. 14. The Board of Directors of the Authority  
14 shall be comprised of six persons. . . . directors  
15 shall be elected . . . .

16 Revised Law

17 Sec. 9020.052. QUALIFICATIONS FOR OFFICE. (a) Each  
18 director of the authority must:

- 19 (1) be a landowner within the authority; and  
20 (2) reside in Bell, Milam, or Williamson County.

21 (b) A director who fails to meet the requirements of  
22 Subsection (a) during the director's tenure in office shall vacate  
23 that office. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 14 (part).)

24 Source Law

25 Sec. 14. . . . The directors of the Authority  
26 or of any subordinate district shall be landowners  
27 within the Authority and reside within Bell, Milam or  
28 Williamson Counties and shall retain such status  
29 during their tenure in office or vacate such office.

30 Revisor's Note  
31 (End of Subchapter)

32 (1) Section 14, Chapter 29, Acts of the 55th  
33 Legislature, 1st Called Session, 1957, refers to the  
34 composition and terms of office of the initial board of  
35 directors. The revised law omits that language  
36 relating to the initial board as executed. The omitted  
37 law reads:

1           Sec. 14. . . . Immediately after  
2 this Act becomes effective the following  
3 named persons shall be the directors of the  
4 Authority and shall constitute the Board of  
5 Directors of said Authority:

6           Bill Schwertner, Schwertner, Texas;  
7 D. A. Swope, Bartlett, Texas; D. D. Hine,  
8 Route 1, Holland, Texas; Fred Harrison,  
9 Jarrell, Texas; Leslie E. Moore, Bartlett,  
10 Texas; and Willie Mason, Route 1, Bartlett,  
11 Texas.

12          The Board of Directors herein  
13 appointed shall serve until their  
14 successors have been duly elected and  
15 qualified. The first three directors named  
16 above shall serve until the second Tuesday  
17 in January, 1959, and the following three  
18 directors shall serve until the second  
19 Tuesday in January, 1960. . . .

20          (2) Section 14, Chapter 29, Acts of the 55th  
21 Legislature, 1st Called Session, 1957, provides that  
22 director elections shall be held on the second Tuesday  
23 in January, with three directors elected each year.  
24 The revised law omits that provision as superseded by  
25 the 1995 enactment of Section 49.103, Water Code, by  
26 Chapter 715, Acts of the 74th Legislature, Regular  
27 Session. Throughout this chapter, the revised law  
28 omits law that is superseded by Chapter 49, Water Code,  
29 or that duplicates law contained in that chapter.  
30 Chapter 49 (enacted in 1995) applies to the authority  
31 under Sections 49.001 and 49.002 of that chapter.  
32 Section 49.103(a), Water Code, provides for staggered  
33 four-year terms for directors. Section 49.103(b),  
34 Water Code, requires board elections to be held on the  
35 uniform election date established by the Election Code  
36 in May of each even-numbered year. The omitted law  
37 reads:

38           Sec. 14. . . . An election for  
39 directors shall be held on the second  
40 Tuesday in January of each year and as  
41 herein provided. Three [directors shall be  
42 elected] in each even numbered year and  
43 three in each odd numbered year. . . .

#### 44           SUBCHAPTER C. POWERS AND DUTIES

##### 45                   Revised Law

46          Sec. 9020.101. GENERAL POWERS. The authority may exercise

1 the rights, privileges, and functions provided by this chapter.  
2 (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 1 (part).)

3 Source Law

4 Sec. 1. . . . [The Authority] . . . with the  
5 power to exercise the rights, privileges and functions  
6 hereinafter specified and . . . .

7 Revised Law

8 Sec. 9020.102. WATER CONTROL AND IMPROVEMENT DISTRICT  
9 POWERS. In exercising the power for which the authority is created,  
10 the authority has the powers conferred by general law on water  
11 control and improvement districts, including the power to:

12 (1) construct, acquire, improve, maintain, and repair  
13 a dam or other structure; and

14 (2) acquire land, easements, equipment, or other  
15 property needed to use, control, and distribute water that may be  
16 impounded, diverted, or controlled by the authority. (Acts 55th  
17 Leg., 1st C.S., Ch. 29, Sec. 5.)

18 Source Law

19 Sec. 5. In exercising the power for which the  
20 Authority is created, it shall have all of the  
21 authority conferred by general law upon water control  
22 and improvement districts, including, but not limited  
23 to, the power to construct, acquire, improve, maintain  
24 and repair dams or other structures and the  
25 acquisition of land, easements, properties, or  
26 equipment which may be needed to utilize, control, and  
27 distribute any waters that may be impounded, diverted,  
28 or controlled by the Authority.

29 Revisor's Note

30 Section 5, Chapter 29, Acts of the 55th  
31 Legislature, 1st Called Session, 1957, refers to  
32 authority "including, but not limited to," certain  
33 powers. The revised law omits "but not limited to"  
34 because Section 311.005(13), Government Code (Code  
35 Construction Act), provides that "includes" and  
36 "including" are terms of enlargement and not of  
37 limitation and do not create a presumption that  
38 components not expressed are excluded.

Revised Law

Sec. 9020.103. CONTROL OF WATER AND FLOODWATER;  
RECLAMATION. The authority may:

(1) control, store, preserve, and distribute the water and floodwater in the authority for the irrigation of arid land, conservation, preservation, reclamation, and drainage of the lands in the authority;

(2) carry out flood prevention measures to prevent damage to the land and other property in the authority; and

(3) reclaim lands heretofore damaged because of the prior failure to provide the facilities authorized to be constructed under this chapter. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 4.)

## Source Law

Sec. 4. The Authority shall have and exercise and is hereby vested with power to control, store, preserve and distribute the water and floodwaters within the area of the Authority for the irrigation of arid land, conservation, preservation, reclamation, and drainage of the lands within the Authority, and is empowered to carry out flood prevention measures to prevent damage to the land and property within the Authority, and to reclaim lands heretofore damaged by reason of the prior failure to provide the facilities authorized to be constructed under the provisions of this Act.

## Revisor's Note

Section 4, Chapter 29, Acts of the 55th Legislature, 1st Called Session, 1957, provides that the authority "shall have and exercise and is hereby vested with power to" perform certain acts. The revised law substitutes "may" for the quoted language because, in context, the terms are synonymous and "may" is more commonly used.

## Revised Law

Sec. 9020.104. COST OF RELOCATING OR ALTERING PROPERTY. If the authority's exercise of the power of eminent domain, the power of relocation, or any other power granted under this chapter makes necessary relocating, raising, rerouting, changing the grade of, or

1 altering the construction of a highway, railroad, electric  
2 transmission line, telephone or telegraph property or facility, or  
3 pipeline, the necessary action shall be accomplished at the sole  
4 expense of the authority. (Acts 55th Leg., 1st C.S., Ch. 29, Sec.  
5 11a.)

6 Source Law

7 Sec. 11a. In the event that the Authority or any  
8 subordinate district thereof, in the exercise of the  
9 power of eminent domain or power of relocation, or any  
10 other power granted hereunder, makes necessary the  
11 relocation, raising, re-routing or changing the grade  
12 of, or altering the construction of any highway,  
13 railroad, electric transmission line, telephone or  
14 telegraph properties and facilities, or pipeline, all  
15 such necessary relocation, raising, re-routing,  
16 changing of grade or alteration of construction shall  
17 be accomplished at the sole expense of the Authority or  
18 such subordinate district thereof.

19 SUBCHAPTER D. TAXES

20 Revised Law

21 Sec. 9020.151. IMPOSITION OF MAINTENANCE TAX; ELECTION  
22 PROCEDURE. (a) The authority may impose a maintenance tax for the  
23 purpose of maintaining structures, channeling, or other  
24 improvements constructed by the authority or others in cooperation  
25 with the authority.

26 (b) A maintenance tax election shall be called and notice  
27 given in the same manner as for a bond election.

28 (c) This chapter does not prevent the calling of a  
29 subsequent maintenance tax election to establish or increase the  
30 amount of tax if the board determines that a maintenance tax  
31 election is required. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 8  
32 (part).)

33 Source Law

34 Sec. 8. . . . For the purpose of maintaining  
35 the structures, channeling or other works of  
36 improvements constructed by the Authority, districts,  
37 or others in cooperation with the Authority or the  
38 districts, the Authority and each of the individual  
39 subordinate districts shall have the power to levy and  
40 assess a maintenance tax, . . . The election shall be  
41 called and notice given in the same manner as  
42 authorized hereunder for a bond election, and . . .  
43 nothing herein shall prevent the calling of subsequent  
44 maintainance tax elections to establish or increase  
45 the amount of the tax should the directors find such

1 election is required.

2 Revisor's Note

3 (1) Section 8, Chapter 29, Acts of the 55th  
4 Legislature, 1st Called Session, 1957, provides that  
5 the authority "shall have the power to levy and assess"  
6 a maintenance tax. The revised law substitutes "may"  
7 for "shall have the power to" because "may" is more  
8 concise and is the substantive equivalent of the  
9 quoted language. The revised law also substitutes  
10 "impose" for "levy and assess" because "impose" is the  
11 term generally used in Title 1, Tax Code, and includes  
12 the levy and assessment of a tax.

13 (2) Section 8, Chapter 29, Acts of the 55th  
14 Legislature, 1st Called Session, 1957, provides that a  
15 maintenance tax may not be levied until the tax is  
16 authorized by a majority of the voters participating  
17 at an election held for that purpose. The section also  
18 provides that an election for a maintenance tax may be  
19 held at the same time as a bond election. The revised  
20 law omits those provisions because they duplicate, in  
21 substance, parts of Section 49.107, Water Code.  
22 Section 8 also refers to "qualified property  
23 taxpaying" voters. The revised law omits the quoted  
24 language because Chapter 11, Election Code, governs  
25 eligibility to vote in an election in this state and  
26 allows only "qualified" voters to vote in an election,  
27 and, in Hill v. Stone, 421 U.S. 289 (1975), the United  
28 States Supreme Court held that property ownership as a  
29 qualification for voting is an unconstitutional denial  
30 of equal protection. The omitted law reads:

31 Sec. 8. . . . provided, however,  
32 that no such maintenance tax shall be levied  
33 until approved and authorized by a majority  
34 of the resident qualified property  
35 taxpaying voters participating at an  
36 election called for that purpose. . . .  
37 [The election] . . . may be held  
38 simultaneously with such bond election, but

1 . . .

2 (3) Section 8, Chapter 29, Acts of the 55th  
3 Legislature, 1st Called Session, 1957, states that a  
4 maintenance tax election shall be held "in the same  
5 manner as authorized hereunder for a bond election."  
6 The revised law omits "authorized hereunder" because  
7 neither Section 8 nor the rest of the act contains bond  
8 election procedures.

9 (4) Section 8, Chapter 29, Acts of the 55th  
10 Legislature, 1st Called Session, 1957, refers to  
11 subsequent "maintainance" tax elections. The revised  
12 law substitutes "maintenance" for "maintainance"  
13 because it is clear that "maintainance" is a  
14 typographical error and that the legislature intended  
15 to use the word "maintenance."

16 Revised Law

17 Sec. 9020.152. MAINTENANCE TAX RATE. In calling a  
18 maintenance tax election, the board must specify the maximum  
19 proposed tax rate. To impose a maintenance tax at a rate that  
20 exceeds the maximum proposed rate approved by the voters, the board  
21 must submit the question of a tax rate increase to the voters.  
22 (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 8 (part).)

23 Source Law

24 Sec. 8. . . . In calling the election, the  
25 directors shall specify the maximum rate of tax which  
26 is sought to be levied, and no tax in excess of that  
27 amount may be levied without submitting the question  
28 of the increased rate of taxation to the electors  
29 hereinabove described. . . .

30 Revisor's Note

31 (1) Section 8, Chapter 29, Acts of the 55th  
32 Legislature, 1st Called Session, 1957, limits the tax  
33 that may be "levied." The revised law substitutes  
34 "impose" for "levied" for the reason stated in  
35 Revisor's Note (1) to Section 9020.151.

36 (2) Section 8, Chapter 29, Acts of the 55th  
37 Legislature, 1st Called Session, 1957, refers to

1 "electors." The revised law substitutes "voters" for  
2 "electors" because "voters" is the term used in the  
3 Election Code.

4 Revised Law

5 Sec. 9020.153. HEARING ON CHANGE IN METHOD OF TAXATION;  
6 LIMITATION. (a) Except as provided by Subsection (b), the  
7 authority may call a hearing, in the same manner as for the adoption  
8 of the original plan of taxation, to consider changing the method of  
9 taxation.

10 (b) After authority bonds are approved by the attorney  
11 general or district court, the authority may not change its plan of  
12 taxation. (Acts 55th Leg., 1st C.S., Ch. 29, Sec. 10.)

13 Source Law

14 Sec. 10. The Authority and each of its  
15 subordinate districts, upon the adoption of the plan  
16 or method of taxation, may call future hearings (in the  
17 same manner as for the adoption of the original plan)  
18 to consider a change in the method of taxation, but  
19 once bonds are approved by the Attorney General or  
20 District Court, the political subdivision issuing  
21 those bonds may not thereafter change its plan of  
22 taxation.

23 Revisor's Note

24 (1) Section 10, Chapter 29, Acts of the 55th  
25 Legislature, 1st Called Session, 1957, provides that  
26 the authority, "upon the adoption of the plan or method  
27 of taxation," may call future hearings to consider  
28 changing the method of taxation. The revised law omits  
29 the quoted language as unnecessary because an initial  
30 method of taxation must have been adopted before that  
31 method could be changed.

32 (2) Section 10, Chapter 29, Acts of the 55th  
33 Legislature, 1st Called Session, 1957, provides that  
34 once bonds are approved by the attorney general or  
35 district court, "the political subdivision issuing  
36 those bonds" may not change its plan of taxation. At  
37 the time of enactment, the act allowed for the  
38 authority and any subordinate districts to issue

1 bonds. As explained in Revisor's Note (4) to Section  
2 9020.005 of this chapter, a subordinate district was  
3 not created during the period allowed. The revised law  
4 substitutes "authority" for the quoted language  
5 because the authority is the only political  
6 subdivision to which the language now applies.

7 SUBCHAPTER E. BONDS

8 Revised Law

9 Sec. 9020.201. ISSUANCE OF BONDS. To accomplish an  
10 authority purpose, the authority may issue bonds as provided by  
11 general law for water control and improvement districts to acquire  
12 money necessary to furnish land or easements or permanent  
13 improvements on the land or easements. (Acts 55th Leg., 1st C.S.,  
14 Ch. 29, Secs. 8 (part), 11 (part), 12 (part).)

15 Source Law

16 Sec. 8. For the accomplishment of any one or  
17 more of the purposes for which the Authority and its  
18 subordinate districts are created or authorized to be  
19 created hereunder, each district and the Authority  
20 . . . may issue bonds, in the manner hereinafter  
21 provided, for the purpose of acquiring the funds  
22 necessary to furnish land, easements or permanent  
23 improvements thereon. . . .

24 Sec. 11. . . . the Authority and the  
25 subordinate districts shall have the power to issue  
26 bonds [secured by a pledge of revenues, taxes or both]  
27 as provided by general law for water control and  
28 improvement districts.

29 Sec. 12. All bonds issued by the Authority or  
30 its subordinate districts shall be issued in the same  
31 manner and with the same terms, upon the same  
32 conditions, and with the same consideration and  
33 provision as under the general law governing water  
34 control and improvement districts. . . .

35 Revisor's Note

36 (1) Section 8, Chapter 29, Acts of the 55th  
37 Legislature, 1st Called Session, 1957, refers to the  
38 authority's power to cooperate with federal entities.  
39 The revised law omits that provision because it  
40 duplicates, in substance, provisions of Section  
41 49.227, Water Code, which provide the authority with  
42 the power to act jointly with any other person or

1           entity. The omitted law reads:

2                       Sec. 8. . . . [each district and the  
3                       Authority] shall have the power and are  
4                       hereby empowered to cooperate with any  
5                       agency, representative, instrumentality,  
6                       or department of the Federal Government and  
7                       . . . .

8           (2) Section 8, Chapter 29, Acts of the 55th  
9           Legislature, 1st Called Session, 1957, provides that  
10          the authority may issue bonds for certain purposes "in  
11          the manner hereinafter provided." The revised law  
12          omits the quoted language because the relevant  
13          procedures for issuing the authority's bonds are  
14          governed by the general law applicable to water  
15          control and improvement districts as provided by  
16          Section 9020.201.

17          (3) Section 8, Chapter 29, Acts of the 55th  
18          Legislature, 1st Called Session, 1957, refers to the  
19          authority's acquisition of "funds." The revised law  
20          substitutes "money" for "funds" because, in context,  
21          the meaning is the same and "money" is the more  
22          commonly used term.

23          (4) Section 11, Chapter 29, Acts of the 55th  
24          Legislature, 1st Called Session, 1957, provides that  
25          bonds issued by the authority may be secured by a  
26          pledge of revenues, taxes, or both as provided by  
27          general law for water control and improvement  
28          districts. The revised law omits that provision  
29          because it duplicates general law. General law,  
30          including bond provisions in Chapters 49 and 51, Water  
31          Code, is sufficient on its own terms. The omitted law  
32          reads:

33                       Sec. 11. . . . [the Authority . . .  
34                       shall have the power to issue bonds] secured  
35                       by a pledge of revenues, taxes or both [as  
36                       provided by general law for water control  
37                       and improvement districts].

1                                    Revised Law

2            Sec. 9020.202. PLEDGE OF REVENUE TO PAY BONDS. When the  
3 board selects a plan of taxation, the board may pledge authority  
4 revenue to pay bonds authorized by voters. (Acts 55th Leg., 1st  
5 C.S., Ch. 29, Sec. 9.)

6                                    Source Law

7            Sec. 9. If bonds are authorized by the  
8 electorate under the provisions of Section 8 of this  
9 Act, the directors may, at the time of selecting a plan  
10 or plans of taxation, also authorize the pledging of  
11 the revenues of the district to the payment of such  
12 bonds.

13                                  Revisor's Note

14            Section 9, Chapter 29, Acts of the 55th  
15 Legislature, 1st Called Session, 1957, provides that  
16 the directors may authorize the pledging of authority  
17 revenue to pay bonds if bonds are authorized by the  
18 electorate "under the provisions of Section 8 of this  
19 Act." The revised law omits the quoted language  
20 because Section 8 does not provide specific procedures  
21 for the authorization of bonds by the electorate.  
22 Section 8 refers to bonds being issued "in the manner  
23 hereinafter provided." The only relevant provisions  
24 in Chapter 29 are in Sections 11 and 12, which provide  
25 that bonds are issued under the general law governing  
26 water control and improvement districts and do not  
27 provide any other specific procedures for the  
28 authorization of bonds (see Section 9020.201).

29                                  Revisor's Note  
30                                  (End of Subchapter)

31            (1) Section 11, Chapter 29, Acts of the 55th  
32 Legislature, 1st Called Session, 1957, authorizes the  
33 authority to issue bonds in "addition to" other powers  
34 the authority has in specific sections of the act. The  
35 revised law omits the provision as surplus because, as  
36 a principle of statutory construction, the various  
37 provisions granting power to the authority must be

1 read cumulatively. The omitted law reads:

2           Sec. 11. In addition to the powers  
3           granted under the provisions of Sections 8,  
4           9 and 10 of this Act, . . . .

5           (2) Section 12, Chapter 29, Acts of the 55th  
6           Legislature, 1st Called Session, 1957, permits the  
7           authority to refund bonds as provided by Section 13 of  
8           that chapter. Section 13 (revised in this chapter as  
9           Section 9020.005) provides that the authority is  
10          governed by the general law pertaining to water  
11          control and improvement districts. The general laws  
12          that pertain to the refunding bonds of a water control  
13          and improvement district include Chapters 49 and 51,  
14          Water Code, which apply to the authority on their own  
15          terms, and Chapter 1207, Government Code, which  
16          contains general authority for an issuer to issue  
17          refunding securities. Chapter 1207 applies to the  
18          authority because the authority is an issuer under  
19          Section 1207.001, Government Code. The revised law  
20          therefore omits the refunding bonds provision because  
21          it duplicates, in substance, the provision revised as  
22          Section 9020.005. The omitted law reads:

23                 Sec. 12. . . . Such bonds may be  
24                 refunded as provided by the law adopted in  
25                 Section 13.

26                         Revisor's Note  
27                         (End of Chapter)

28           (1) Section 3, Chapter 29, Acts of the 55th  
29           Legislature, 1st Called Session, 1957, provides that  
30           the authority shall conduct preliminary surveys and  
31           develop a plan for the control and use of the waters of  
32           Donahoe Creek, and that the authority's board must  
33           adopt the survey and plan. Section 3 also requires the  
34           authority to file a certified copy of the surveys and  
35           plan with the State Board of Water Engineers. The  
36           revised law omits that provision as executed because

1 the authority completed the surveys and plan and  
2 submitted them to the State Board of Water Engineers.

3 The omitted law reads:

4           Sec. 3. The Authority shall conduct  
5 preliminary surveys and develop a plan for  
6 the control and use of the waters of Donahoe  
7 Creek to the end that improvements upon any  
8 one part of the watershed will be  
9 mechanically and economically related to  
10 the improvements of the entire watershed.  
11 Upon the completion of such surveys and  
12 plans, and their adoption by the directors  
13 of the district, a certified copy thereof  
14 shall be filed with the State Board of Water  
15 Engineers for informational purposes.

16           (2) Section 6, Chapter 29, Acts of the 55th  
17 Legislature, 1st Called Session, 1957, provides a  
18 procedure for establishing within a limited period a  
19 subordinate district to accomplish and carry into  
20 effect plans approved by the authority and contains  
21 other provisions related to a subordinate district  
22 established by the authority. The revised law omits  
23 those provisions for the reasons stated in Revisor's  
24 Note (4) to Section 9020.005. The omitted law reads:

25           Sec. 6. Within ninety (90) days after  
26 the preliminary surveys and plans have been  
27 filed with the State Board of Water  
28 Engineers, the directors of the Authority  
29 may, upon the receipt of a petition executed  
30 by twenty-five (25) persons who own  
31 property within the Authority, call a  
32 public hearing upon the question of whether  
33 subordinate districts shall be created to  
34 accomplish and carry into effect any  
35 portion of plans theretofore approved by  
36 the Authority. The petition shall be  
37 sufficient to confer jurisdiction upon the  
38 directors to call such hearing if it is  
39 executed as aforesaid and if it describes  
40 the particular portion or portions of the  
41 plans which the petitioners believe might  
42 be more feasibly executed if carried into  
43 effect by a subordinate district. Notice of  
44 hearing shall be given by the district in  
45 the mode and manner prescribed for a hearing  
46 on the adoption of a plan of taxation for a  
47 water control and improvement district, and  
48 the hearing may be adjourned from day to day  
49 until all persons desiring to be heard and  
50 present evidence have had an opportunity to  
51 be heard and present evidence. Upon  
52 conclusion of the hearing, the Board of  
53 Directors of the Authority shall enter an  
54 order granting or refusing the petition in

1 whole or in part. The petition, or portion  
2 of the petition, shall be granted if the  
3 directors find that it would be feasible for  
4 a subordinate district to carry the plans  
5 for the particular improvement into force  
6 and effect. The decision of the directors  
7 shall be final except as hereinafter  
8 provided.

9 If the petition is granted, in whole or  
10 in part, the directors of the Authority  
11 shall forthwith prepare, execute and cause  
12 a petition to be filed with the County Judge  
13 of the county wherein the area of the  
14 proposed subordinate district or districts  
15 is to be located, or with the Board of Water  
16 Engineers if the area of the proposed  
17 subordinate district or districts is to be  
18 located in more than one county. The  
19 petition to the County Judge or the Board of  
20 Water Engineers shall be executed by the  
21 directors of the Authority (in lieu of the  
22 requirements of the provisions of Section  
23 10 of Chapter 25, Acts of the 39th  
24 Legislature, 1925) but in all other  
25 respects the provisions of the general law  
26 applicable to water control and improvement  
27 districts shall control as to the creation  
28 of such subordinate district or districts.

29 The subordinate districts, if created,  
30 shall have the same powers as conferred by  
31 this Act upon the Authority, but such power  
32 shall be effective only within the area of  
33 the subordinate district and such district  
34 shall only carry into effect the plans  
35 adopted by the master district as  
36 originally adopted or subsequently modified  
37 with the approval of the directors of the  
38 subordinate district. The subordinate  
39 district may not extend its boundaries, but  
40 may exercise the power of eminent domain  
41 outside its boundaries in the manner  
42 provided by general law for water control  
43 and improvement districts.

44 Except as herein in this section  
45 provided, the procedure for the creation of  
46 such subordinate districts shall follow the  
47 provisions of general law relating to water  
48 control and improvement districts and the  
49 order creating such districts, if the  
50 petition is granted after hearing, shall  
51 delineate the powers of the subordinate  
52 district as set forth in the provisions of  
53 this Act.

54 It is specifically provided that the  
55 Authority may consider any and all  
56 petitions for the creation of subordinate  
57 districts at one hearing, it being the  
58 purpose and intent of this Act to permit the  
59 formation of local governmental units to  
60 carry out the master district program  
61 formulated by the Authority if the  
62 directors of the Authority find such  
63 procedure to be feasible and if the  
64 Commissioners Court or the Board of Water  
65 Engineers find (under the provisions of  
66 Article 7880, subdivisions 19 or 21) that  
67 the subordinate district should be created  
68 and the organization of such subordinate

1 districts is subsequently confirmed by the  
2 electors of the respective subordinate  
3 districts.

4 If no petitions are presented, or if  
5 the directors of the Authority deny the  
6 petition or petitions, or if the  
7 Commissioners Court or Board of Water  
8 Engineers refuse to create a subordinate  
9 district or if the confirmation election  
10 fails to carry by a majority vote of those  
11 participating in the election, then such  
12 subordinate district shall not be created  
13 and the duties and powers of the Authority  
14 shall not be affected thereby.

15 If subordinate districts are created  
16 under the provisions of this Act, the area,  
17 duties and power of the Authority shall not  
18 be affected thereby save and except that the  
19 subordinate district shall carry the plans  
20 of the Authority or approved modification  
21 thereof into effect.

22 (3) Section 7, Chapter 29, Acts of the 55th  
23 Legislature, 1st Called Session, 1957, provides that  
24 the district is not required to hold a hearing for the  
25 exclusion of land or for the confirmation of the  
26 organization of the district. The revised law omits  
27 the provision as executed. The provision is a  
28 transition provision addressing the applicability of  
29 provisions of the general law in effect at the time of  
30 the district's creation that governed the creation of  
31 water control and improvement districts. A district  
32 created under the general law in effect at that time  
33 would have been required at the time of its creation to  
34 hold both a confirmation election and a hearing on the  
35 exclusion of land from the district. The omitted  
36 provision negates those general law requirements as  
37 inapplicable to this legislatively created district.  
38 The power or duty to hold a hearing to exclude land  
39 subsequent to the creation of the district is governed  
40 by Subchapter J, Chapter 49, Water Code, which applies  
41 to the district under Sections 49.001 and 49.002 of  
42 that code, and Subchapter O, Chapter 51, Water Code,  
43 which applies to the district under Section 9020.102  
44 of this chapter. The omitted law reads:

1           Sec. 7. It shall not be necessary for  
2           the Authority to have a hearing for  
3           exclusions of land or for the confirmation  
4           of its organization.

5           (4) Section 15, Chapter 29, Acts of the 55th  
6           Legislature, 1st Called Session, 1957, provides that  
7           the act is severable. The revised law omits this  
8           provision because the same result is produced by the  
9           application of Section 311.032(c), Government Code  
10          (Code Construction Act), which provides that a  
11          provision of a statute is severable from each other  
12          provision of the statute that can be given effect. The  
13          omitted law reads:

14                 Sec. 15. If any clause, sentence,  
15                 section or provision of this Act is found,  
16                 by a court of competent jurisdiction to  
17                 contravene the provision of the State or  
18                 Federal Constitution, the invalidity of  
19                 that portion shall not affect the remainder  
20                 of the bill, it being the intention of the  
21                 Legislature to enact the provisions herein  
22                 contained despite such partial invalidity.